

## **REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

### **Status of the Claims:**

Claims 9, 10, 11, 21-23, 25-28, 32, 36, 37, 44-53, and 55 are currently being amended and new dependent claims 56-74 along with new independent claim 75 have been added.

This amendment changes and adds claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 9-16, 21-23, 25-42, 44-53 and 55-75 are now pending in this application.

### **Interview Summary:**

On March 11, 2008, Examiner Tarae and the representative of Applicants at the time, Thomas Corrado, conducted a telephonic examiner interview. There were no exhibits shown nor was a demonstration conducted. The Subfinder reference and the generation limitation recited in independent claims 9, 21 and 25 were discussed. As a result of the examiner interview, Examiner Tarae concluded that Subfinder does not teach the step of “generating, in response to receiving the absentee list, one or more lists of one or more potential substitute workers who can fill in for each absent worker on the absentee list using the worker records associated with the absent worker and the substitute records,” as recited in independent claims 9, 21 and 25. The Interview Summary date March 11, 2008 by Examiner Tarae states this conclusion. Claims 22, 23, 26-42, 44-53 and 55 had previously been indicated to be allowable.

### **Interview Summary:**

A telephone interview was conducted between Examiner Tarae and William Ellis on April 7, 2008. The amendments to the claims submitted herein were discussed.

**Claim Amendments:**

The amendments to independent claims 9, 21 and 25 change the recited “generating” limitation that the Examiner indicated in the Interview Summary was not taught in the Subfinder reference only by substituting the word --after-- in place of “in response to.” This is to indicate that the “generating” step need not take place substantially immediately upon receiving the absentee list, but can also take place at some later time. Thus, these amendments do not change the patentability of independent claims 9, 21 and 25 with respect to this reference. The amendments clarify the limitation of contacting substitute workers on one or more of the generated lists. Additionally, the steps of receiving an acceptance electronically and securing electronically in response to the accepting step have been added to place the claim in context.

Note that the allowable claims have been amended to further clarify that the response received is an acceptance of the job offer, and that the securing step is performed electronically in response to the accepting step. The actual main securing operation takes place in the server. Thus, it is clarified that the securing is performed electronically. Also, note that the claim step “receiving a response by a substitute worker accepting a posted position ~~on the website~~ via the instant messaging system” in claims 27, 28, 32, 36, and 45 has been changed to delete the language “on the website” in the “receiving a response” step. The “posting” step to which this step refers back within the claim is not a posting on a website step, so that these claims with the phrase “on the website” had lacked antecedent basis.

Note further that in order to be consistent, a number of claims, such as claims 22, 23, 26, 27, 44, 45 and 55 have been amended to clarify that the list is of “one or more” positions of “one or more” workers. This change makes these claims consistent with claims 9-16, 21, 25, 28, 32-35, 36 and 46-53.

It is further understood that the term “posting” is intended to be interpreted broadly as the submission to a processor of information to be processed and accessible for display via

any convenient electronic technology, such as a website, instant messaging, or a client-server protocol, to name a few.

It should be noted that the phrase “response by a substitute worker” in claims 9, 21, 22, 25, 26, 28, 32, 36, 37, 44, 46, 50, and 75 is intended to be interpreted broadly to include a direct response by the substitute worker on a website or instant messaging or other electronic means, and also a response by an electronic agent set up by the substitute or at his/her direction to respond to a posted position.

Allowable claim 44 and counterparts have been amended to remove the designations “first” and “second” as modifiers and to replace the words “first worker” with the word -- position--.

All of the new claims except claim 75 are dependent claims. New dependent claims 56, 57 and 60 add the limitation that there are a plurality of lists generated. New dependent claims 58, 59 and 61-67 add the additional step of generating the list in response to the substitute worker connecting to the server. New dependent claims 68-74 clarify that the generating the list is in response to receiving an absentee list or a position list. New claim 75 tracks claim 50, but in method claim format.

#### **Double Patenting Rejections:**

Claims 22, 23, 26-42, 44-53 and 55 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3 and 6 of U.S. Patent No. 6,675,151.

Applicants hereby submit a terminal disclaimer to obviate this rejection.

#### **35 U.S.C. § 103 Rejections:**

Claims 9-16, 21 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Subfinder™ System (“Subfinder”). As mentioned above, these rejections are rendered moot in view of the agreement reached during the telephonic examiner interview conducted March 11, 2008. The Examiner agreed that the current rejection of record does not

teach the step of generating one or more lists of one or more potential substitute workers (see Interview Summary, March 11, 2008). At least because the generating step recited in independent claims 9, 21 and 25 is not taught in Subfinder, independent claims 9, 21 and 25 are not unpatentable over Subfinder.

Applicants respectfully request that the rejections of independent claims 9, 21 and 25 under 35 U.S.C. § 103(a) be withdrawn. Accordingly, Applicants respectfully request that the rejections of dependent claims 10-16 be withdrawn based on their dependence on independent claim 9.

**Conclusion:**

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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